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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,293	05/08/2001	Tebaldo Granata	SODH.84679	3134

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EXAMINER

GONZALEZ, MADELINE

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 08/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicati n N .

09/851,293

Applicant(s)

GRANATA, TEBALDO

Examiner

Madeline Gonzalez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on May 9, 2000. It is noted, however, that applicant has not filed a certified copy of the foreign application as required by 35 U.S.C. 119(b).

### ***Information Disclosure Statement***

2. The first two references cited by applicant, i.e., U.S. Patent 5,675,515 and Nubbaum Automotive Lifts and filed on April 13, 2001 (Paper No. 2) have been considered. The rest of the references provided by applicant have not been considered since all the pages were stick together and the examiner was unable to separate them since the pages might brake. They have been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1). Furthermore, for the references to appear in the face of a patent, if any is ultimately issue, applicant should submit a PTO-1449 citing the references.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. In this case, there is lacking a structural relationship between the platform, the axle measuring unit and the lifting device.

Claims 2-10 are rejected due to their dependency on claim 1.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

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(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

6. Claims 1-4 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Naruse et al. (U.S. 6,256,894) [hereinafter Naruse].

Naruse discloses a wheel alignment apparatus method having:

- a mounting tray 12 (vehicle lift platform);
- a control device 80 (axle measuring unit);
- a lifting device including a main lifting apparatus 10 (first lifting stage) and a sub-lifting apparatus 14 (second lifting stage); and
- inherently, means for actuating the main lifting apparatus 10 (first lifting stage) and the sub-lifting apparatus 14 (second lifting stage) independently of each other (see col. 25, lines 14-19);
- the lifting device is arranged on the main lifting apparatus 10 (first lifting stage);
- a lifting drive for the mounting tray 12 (vehicle lift platform), a lifting drive of the sub-lifting apparatus 14 (second lifting stage), and inherently, means for actuating the lifting devices;
- a lifting drive for the main lifting apparatus 10 (first lifting stage), and means for reversibly actuating the lifting drive; and
- wherein the main lifting apparatus 10 (first lifting stage) is in the form of a scissors platform.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5-7 and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naruse (U.S. 6,256,894).

Naruse discloses all the subject matter claimed above in paragraph 6 with the exception of the specific driving means, a foundation, and a plate.

With respect to the specific driving means: Naruse discloses a wheel alignment adjustment apparatus having driving means for lifting the platform and the first and second stages. The specific driving means claimed by applicant, i.e., piston cylinder unit, absent any criticality, is only considered to be nothing more than a choice of engineering skill, choice or design because 1) neither non – obvious nor unexpected results, i.e., results which are different in kind and not in degree from the results of the prior art, will be obtained as long as a driving means for the platform and lifting stages is provided as already suggested by Naruse.

With respect to the foundation and the plate: It is well known in the art to provide a support, such as a foundation, to a platform and/or a lifting apparatus in order to facilitate the vehicle driving over the platform and to provide more stabilization to the lifting apparatus. Also, it is well known in the art to provide a plate in order to cover the apparatus when in not in use and avoid any injuries to people. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a foundation and a plate in order to provide more stabilization to the lifting apparatus, and to protect the apparatus from the environment.

With respect to the method steps: The method steps are met during the normal operation of the apparatus stated above.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Naruse et al. ('881) and Kawashima et al. ('585) disclose methods of adjusting vehicle wheel alignment. Colarelli, III et al. ('639) discloses a multi-axle vehicle sideslip tester. Battiti et al. ('013) discloses a method and device for regulating the attitude of a motor vehicle. Rossato discloses a device for supporting motor vehicle wheels. Marshall and Riutta disclose measuring apparatuses.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Madeline Gonzalez whose telephone number is (703) 308-7004.

The examiner can normally be reached on Monday-Friday (8:00-5:30), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 305-3431 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

MG  
July 29, 2002



Diego F.F. Gutierrez  
Supervisory Patent Examiner  
Technology Center 2800